

2 questions, I would like you to assume that your  
3 company's share of the assessment is  
4 approximately half, just as a nice round number,  
5 and keeping it simple.

6 A Okay.

7 Q And I would also like you to  
8 assume that what New Jersey is able to recover  
9 from the Federal Universal Funding is the pro  
10 rata share so that \$80 million would be coming  
11 into schools and libraries.

12 Do you understand that assumption?

13 A Yes, I do.

14 Q I think it's a reasonable  
15 assumption to make.

16 A It's just so interesting the  
17 assumption is pretty much whatever is collected  
18 in the fund New Jersey gets paid back for New  
19 Jersey schools and libraries.

20 Q In the form of a discount?

21 A Yes. I do understand the  
22 assumption, yes.

23 Q Does that mean if a library  
24 receives a \$100 discount from your company and  
25 Bell Atlantic recovers that \$100 from the Federal

2 Universal Fund, that based on my assumption of  
3 that, your company is providing half of the  
4 assessment and your customers are paying roughly  
5 half of the cost of discount, and customers of  
6 other carriers are paying the other half, is that  
7 correct?

8 A That sounds right to me.

9 Q So that if the overall value of  
10 the Schedule A discount was to be \$55 million, in  
11 effect 27 1/2 million of it would be paid by your  
12 customers and 27 1/2 million would be paid for by  
13 the customers of other carriers. Is that true?

14 A See, I'm not sure you can  
15 translate the effective discount rate from  
16 Schedule A to be equal to the effective discount  
17 rate from the Federal Program.

18 Q Well, assume for the answer, if  
19 you need any further assumption, that in every  
20 instance the Schedule A discount is more  
21 attractive than the federal amount available?

22 A See, that's my - - I guess that's  
23 my problem with the question. That's not a valid  
24 assumption because I would assume there were  
25 certain schools within New Jersey that would be

2 eligible for the 80 and 90 percent discount.

3 And so I think this analysis gets  
4 a little bit hard to do because the discount rate  
5 doesn't equal, match or track.

6 Certainly harder than I can do in  
7 my head before you right now.

8 Q Let's assume that the actual value  
9 of the Schedule A discount is only \$20 million  
10 rather than \$55 million.

11 A Okay.

12 Q In that case, \$10 million of what  
13 gets reimbursed to your company is paid for by  
14 Bell Atlantic customers and \$10 million is paid  
15 for by the customers of the other carriers, is  
16 that essentially the way it would work?

17 A So in this situation only \$20  
18 million is going into the fund from New Jersey?

19 Q No, rather than -- you were  
20 hesitant about my estimating that the value of  
21 Schedule A discount was \$55 million because that  
22 assumes certain rates as you explained to Mr.  
23 Pappalardo earlier and now with there potentially  
24 being higher discounts for at least some  
25 purchasers of the service, they would not, under

1 West - cross

72

2 your interpretation of how Schedule A works, it's  
3 an either/or proposition, some purchasers would  
4 no longer rely on Schedule A. So the take rate  
5 would necessarily be less than what was  
6 originally estimated since that \$55 million was  
7 based on a certain take rate.

8 I'm asking you to assume that the  
9 new estimated value of the Schedule A rate is \$20  
10 million?

11 A Okay.

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2 Q And under that scenario, the \$20  
3 million is returned to the Federal Return Fund,  
4 to Bell Atlantic, \$10 million of it will in  
5 effect undergo a round trip, if you will, from  
6 your customers back to you, but the other \$10  
7 million would have come from other carriers'  
8 customers and eventually end up with your  
9 company, is that true?

10 A Sure, and I think that's a  
11 consequence of the way the fund is set up, yes.

12 Q Are you familiar with the concept  
13 of a revenue neutral rate adjustment as that term  
14 is used in your plans for alternative rates?

15 A Yes.

16 Q Now you would be free, would you  
17 not, under our plan at this time to propose a  
18 revenue neutral rate adjustment where you would  
19 cut rates to schools and libraries by \$50 million  
20 and increase other rates by \$50 million to make  
21 up the cost, isn't that true?

22 A Free to propose. Getting approved  
23 is a different issue. Without a fair amount of  
24 analysis, I'm not sure that would be a prudent  
25 revenue neutral to make in the first place.

2 Q And part of the reason it would  
3 potentially be objected to is that there would be  
4 no overall value to the ratepayers. Some  
5 ratepayers would be at an advantage and others  
6 would be worse off, there would be no overall  
7 positive benefit to your ratepayers, is that  
8 true?

9 A Well, I mean this is part of a  
10 revenue neutral company. You always have winners  
11 and losers. If you're going to say revenue  
12 neutral is disqualified on public benefit reasons  
13 because one or two or some small subjective  
14 customer pays more, you would never get a revenue  
15 neutral approved.

16 I mean, I think that calculus is a  
17 little simplistic, but I do agree with you on it,  
18 that situation would exist and might be a reason  
19 for disqualifying revenue neutral.

20 Q If you can look at Page 1, a piece  
21 of the Stipulation which is part of Exhibit 18,  
22 B1, AT&T-181, Page 1.

23 A Okay.

24 Q And you will see on the fourth  
25 line of the second full paragraph that phrase:

2 "Estimated value of benefit to ratepayers of \$176  
3 million".

4 A Yes, I do.

5 Q And is it fair to assume that what  
6 it really was talking about was ratepayers of  
7 Bell Atlantic-New Jersey, not any other  
8 ratepayers?

9 A Yes, I believe that's true.

10 Q And your understanding of what  
11 that phrase means is that ratepayers will be  
12 paying \$176 million less than they would have  
13 been paying in the absence of this Stipulation?

14 A On an estimated basis, yes.

15 Q But if the \$50 million is  
16 recovered either from your ratepayers or from  
17 other ratepayers, it really hasn't any net  
18 benefit to ratepayers, isn't that true?

19 A Again, I think this is part of an  
20 age old debate that surrounds shifting rates  
21 around. There is no new money made here. Simply  
22 there is no free lunch. Somebody is always going  
23 to pay for the discount. So, one could argue in  
24 totality there is no net benefit, someone else  
25 might argue there is a genuine societal benefit

1 West - cross

76

2 to provide the discount to specific entities that  
3 are getting them.

4 That's no calculus on that.

5 That's public policy.

6 Q But if you're not permitted to  
7 pass along costs of that 50 million to your  
8 ratepayers and in effect it had to be absorbed by  
9 your shareholders, then in fact there is a very  
10 real transfer going on, isn't that true?

11 A Two things. I'm not sure how you  
12 can strain those problems. So, it has to be paid  
13 for by the shareholders and, second of all, at  
14 the table are AT&T and Bell Atlantic and the last  
15 time I looked, AT&T was the most widely owned  
16 stock and Bell Atlantic was the second-most  
17 widely owned stock.

18 There's a second order of fact  
19 when you inflict pain on the shareholders. You  
20 are also inflicting pain on the consumers who own  
21 those stocks.

22 Q So are you saying there was in  
23 effect, there was really no advantage to  
24 ratepayers as a result of ONJ?

25 A I don't believe that to be true at



1 West - cross

77

2 all. The power in the ONJ settlement is not in  
3 the dollars and cents. It's in the follow  
4 through on the technology commitment.

5 Q If we can look once more at Page  
6 7, at Lines 4 and 5?

7 A Okay.

8 Q You confirm in order to be  
9 eligible for a federal discount, schools or  
10 libraries must go through what you describe as  
11 the federally required bidding process, is that  
12 true?

13 A Yes.

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2 Q And that's your understanding of  
3 how the federal program works?

4 A Right. I don't think the process  
5 has been fully flushed out yet, but there  
6 certainly are some paragraphs in the FCC Order  
7 that describe that kind of activity.

8 Q And in fact if you have Paragraph  
9 480 available to you --

10 A Yes.

11 Q The first sentence on that  
12 paragraph says that fiscal re: responsibility  
13 compels us to require eligible schools and  
14 libraries seeks competitive bids for all services  
15 eligible for Section 254H.

16 A Yes, it does.

17 Q Discount, is that true?

18 A Yes.

19 Q Now I know that Bell Atlantic has  
20 at least at this point opposed the creation of  
21 any case specific Universal Service Fund, but if  
22 a state specific Universal Fund was to be ordered  
23 as a result of this proceeding, would you  
24 recommend the same kind of competitive bidding  
25 process as a prerequisite to eligibility for

1 West - cross

79

2 compensation from Universal Service Fund?

3 A On the surface it makes sense to  
4 me as long as the bureaucracy associated with it  
5 doesn't outweigh the benefits. I suspect that's  
6 a good idea.

7 Q If we can look at the table of  
8 rates that Mr. Pappalardo was questioning you  
9 about earlier, Schedule A?

10 A Yes.

11 Q If an eligible school or library  
12 goes through the competitive bidding process and  
13 keeping it simple, we continue with the same  
14 rates that Mr. Pappalardo was questioning you on,  
15 the SMDS service, if there is an RFP issue, what  
16 is your understanding as to the rate which Bell  
17 Atlantic will propose in the response to the RFP?

18 A In the simple case we're using  
19 tariff rates, it would be 225.

20 Q So would you propose \$225? You  
21 don't by virtue of this ONJ Stipulation, you  
22 don't view yours as being obligated to offer the  
23 rate of \$100?

24 A No, that's our position.

25 Q But if the school systems decided

2 that a competitive bidding process was too  
3 cumbersome, you would in fact be willing to offer  
4 the \$100 rate as long as they do not go through  
5 the competitive process, is that the way it ends  
6 up?

7 A Well, I think even in that  
8 situation, the rate that we would present the  
9 school would be the 225 with an understanding  
10 that the effective rate they would pay in a post-  
11 discount environment would be the 100. I don't  
12 envision us ever letting go of the 225 as our  
13 version of the market rate.

14 Q Let's assume that the RFP is  
15 coming out from a school from which is otherwise  
16 eligible for a 20 percent discount under the  
17 federal matrix and let's assume that MCI submits  
18 a bid of \$200.

19 A Okay.

20 Q Now how is the school system  
21 supposed to evaluate your bid of 225 versus MCI's  
22 bid of 200?

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2 A Well, the school system has to  
3 look at all the moving parts. They have to look  
4 at the pre-discount rate and the post-discount  
5 rate and presumably would assume or presumably  
6 would select the best post-discount rate, and  
7 since all these discount rates are public, I  
8 would expect the carriers to react to that by  
9 setting the going-in rate or discount rates that  
10 are competitive.

11 Q Is your understanding that if the  
12 MCI proposal were chosen -- well, let me go back.

13 If MCI's proposal is chosen, what  
14 is your understanding of the amount that actually  
15 must be paid by the school?

16 A If I remember your example, they  
17 would pay \$160 and MCI would be able to secure  
18 \$40 from the Federal Universal Service Fund.

19 Q And if they went with your  
20 proposal for \$225, the school district would only  
21 have to pay \$100.

22 A Correct.

23 Q And you would get back \$125 from  
24 the Federal Universal Service Fund?

25 A I think \$112.50.

2 Q I'm sorry.

3 A We are in an environment where the  
4 discount rate is 50 percent?

5 Q No, where the Federal discount is  
6 only 20 percent.

7 A I'm sorry.

8 Q And you had bid \$225.

9 A We would get back \$45.

10 Q So even though you bid more than  
11 MCI and you are obtaining more from the Federal  
12 Universal Service Fund than MCI, the bid would  
13 end up going to you?

14 A Correct.

15 Q And the school system -- well, if  
16 you have a bid for \$225 and I think now you  
17 testified that you are actually going to charge  
18 them \$100 -- is that true? You're going to  
19 charge \$100?

20 A Right. Their post-discount rate  
21 would be \$100.

22 Q How do you tell them? I mean, do  
23 you basically submit the bid with a wink and say  
24 don't believe the number in our bid, the actual  
25 price is less than half that?

2 A My understanding is all these  
3 discounts both Federal and State are publicly  
4 available on the internet and other sources so  
5 there is no wink, there is no secrecy here.  
6 Everybody knows which discounts apply to which  
7 services.

8 And, do the Schedule A impacts on  
9 the market? Obviously, yes.

10 Q But you think that the Federal  
11 Fund should be obligated to pay you 20 percent of  
12 a price that was, in fact, never the price that  
13 was intended to be charged?

14 A Well, the tariff rate is \$225.  
15 The customer is getting the service for \$100.  
16 So, it doesn't seem outrageous to me that we  
17 would go to the Federal Fund and in that example  
18 recover \$45.

19 The winner in this situation  
20 obviously is the school. That's the way it's set  
21 up. It's not set up to benefit telecommunication  
22 companies.

23 Q Mr. West, if a tariff price  
24 changes, is it your testimony that the proposed  
25 education rate will also change in parallel so

2 that the percentages remain constant?

3 A I don't know that. I don't know  
4 that anybody has thought that far ahead.

5 Q Most of the services that are on  
6 this list are actually competitive services.  
7 Isn't that true?

8 A I think that's true, yes.

9 Q So, in fact, the tariff price can  
10 change all the time.

11 A There are some minor restraints on  
12 the way they can change but, certainly, they are  
13 a lot freer to change than the rate-regulated  
14 services.

15 Q And, in fact, these services can  
16 also be subject to customer specific pricing?

17 A That's correct.

18 Q Would customer specific prices  
19 ordinarily be less than the tariff price?

20 A If you want somebody to purchase  
21 your CSP, they better be, yes.

22 Q But again your understanding the  
23 way the process works is that you would be  
24 receiving 20 percent of the tariff price, not 20  
25 percent of the lowest customer specific price.



2 A Well, no. I think in that case we  
3 would receive 20 percent of the CSP price and, to  
4 the extent that somebody else was "similarly  
5 situated" they would be eligible for the same CSP  
6 and we would go to the Federal Universal Service  
7 Fund with the same request for compensation.

8 Q Who applies for compensation, is  
9 it the school or is it the service provider?

10 A The school reports the contract  
11 for the deal that they have made. They pay the  
12 post-discount rate and then the Fund  
13 administrator makes the telecommunications  
14 carrier a payment out of the Fund.

15 Q So then you would have to inform  
16 the school of the lowest CSP that would serve, in  
17 effect, as the pre-discount price?

18 A I think that would be appropriate.  
19 The lowest CSP for a similarly situated customer,  
20 yes.

21 Q But that price may well be less  
22 than what you are proposing to the school in  
23 response to the RFP.

24 A No, I don't think so. I think in  
25 this situation the RFP would be the CSP price,

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West - cross

86

not the tariff price, and the CSP price would then be the basis for seeking compensation out of the Federal Universal Service Fund.

MR. LASKEY: I have no further questions.

COMMISSIONER ARMENTI: Let's take a 15-minute recess at this point.

(Whereupon, recess taken.)

COMMISSIONER ARMENTI: Mr. Perkins, you are up.

MR. PERKINS: Thank you, Commissioner.

Mr. Dennehy asked me how long I intended to be, I don't intend to be any particular length and, I started out this morning with no questions at all but, as we have established in this proceeding, one is easily confused and, now I am somewhat confused.

## 2 CROSS-EXAMINATION BY

3 MR. PERKINS:

4 Q Mr. West, I'm Ray Perkins, I  
5 represent the New Jersey Cable Telecommunications  
6 Association and it is still morning, so, good  
7 morning.

8 A Good morning.

9 Q I want you to assume with me, if  
10 you would, please, for purposes of these  
11 questions that I am a citizen of our municipality  
12 who is actively involved in the process of  
13 government of our municipality and that to people  
14 who are responsible for the administration of the  
15 school district are aware of the fact that I'm an  
16 attorney participating in this proceeding and  
17 will ask me some questions concerning the  
18 mechanics of how we get the best discount and  
19 best prices for our school district.

20 Do you have any difficulty with  
21 that assumption?

22 A No, I don't.

23 Q And I would <sup>ask</sup> ~~add~~ that you would  
24 with me, if you would, contemplate some of the  
25 questions that I might be asked and perhaps you

1 West - cross

88

2 can help me answer these questions for the people  
3 who are responsible for running our school  
4 district.

5 A Okay.

6 Q The first question that I  
7 anticipate that I would be asked regarding the  
8 discounted rate and for purposes of these  
9 discussions, let's continue to use the rates set  
10 out for SMDS at 56 kilobytes per second which  
11 shows a tariff rate of \$225 and a proposed  
12 education rate of \$100 on Schedule A.

13 A Okay.

14 Q The first question that I might be  
15 asked of some preliminaries would be what is it  
16 that our school district has to do in order to  
17 qualify for the \$100 rate that's set out in  
18 Schedule A?

19 A I think so long as it's a school  
20 K-12 they are entitled to that discount.

21 Q I'll ask you to assume with me as,  
22 in fact, the case that there are a number of  
23 buildings in the districts which are K-12 and so  
24 that all one must do -- let me rephrase that.

25 Would I be accurate in saying to

1 West - cross

89

2 the people who might ask me that question that  
3 all one needs to do is call Bell Atlantic and say  
4 that it wants or that we want SMDS service at 56  
5 kilobytes per second and we will then pay \$100  
6 for that service?

7 A That's true, yes.

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2 Q Well, we don't have to employ any  
3 administrative staff to fill out any special  
4 application, is that correct?

5 A I don't know that there is an  
6 application procedure.

7 Q And in the stipulation you entered  
8 into with Ratepayer Advocate and the Staff, is  
9 there any provision for any filing of any special  
10 application?

11 A I don't recall one.

12 Q And there is none in the Order  
13 either, is that correct?

14 In the Order submitted as part of  
15 AT&T 181 adopting the stipulation?

16 A Right. I don't recall one.

17 Q I would ask you to also assume  
18 that the ratepayers or rather the taxpayers in  
19 our district are very concerned about  
20 administrative overhead and are seeking to keep  
21 that at a minimum. But we also have other people  
22 in our community who are knowledgeable about this  
23 so they may ask a question, if all we have to pay  
24 is \$100, can't we also apply for the discount to  
25 the Federal Communication Commission under the

2 Universal Service Fund?

3 And what should my answer to that  
4 question in your view be, Mr. West?

5 A I think it's a reasonable question  
6 and the option needs to be explored.

7 Q And in exploring that, can I say  
8 to them, "Oh, no, if we have the \$100 rate, we  
9 then are not eligible for any further discount  
10 from that \$100 rate"?

11 A For that particular service  
12 because the discounts are alternative to one  
13 another, the answer is yes.

14 Q And I'm sure that I will be asked  
15 where does it say that, and perhaps you can give  
16 me an answer that I can pass on to the folks in  
17 my town who may be concerned about that.

18 A In the stipulation it says if a  
19 state or federal universal - -

20 COMMISSIONER ARMENTI: What page?

21 THE WITNESS: I'm sorry, page  
22 6 towards the top, paragraph 2.

23 "If a state of federal universal  
24 service policy is established that price  
25 discount to schools and libraries for

2 services listed in Schedule 8, schools  
3 and libraries will be able to obtain  
4 whichever discount was greater."

5 Q And as I understand your testimony  
6 this morning, in response to questions from Mr.  
7 Pappalardo and Mr. Laskey, and let us assume we  
8 are eligible for, in our district for a 50  
9 percent discount, in response to the question of  
10 can we still file an application for a discount  
11 under the Federal Fund, in your view I would  
12 presume you are saying yes, but that's really  
13 exclusive of this \$100 discount.

14 We either pay the \$100 under this  
15 or we go to the Federal Communication Commission  
16 and ask for a 50 percent discount from the \$225  
17 rate as set out in the tariff.

18 And thus, we would wind up paying  
19 \$112.50. Would that be an accurate response to  
20 the question?

21 A I don't think so. I think there is  
22 a third alternative where you report the 225 as  
23 the prediscount rate. You denote that you're  
24 opting to receive service under Schedule A so  
25 that Bell Atlantic would receive, I guess,



2 112.50.

3 And because you opted to go with  
4 Bell Atlantic, who has the ability to provide  
5 these Schedule A discounts, that particular  
6 service would be provided to you at \$100.

7 Q I would expect that in response to  
8 such a proposition our school board attorney  
9 might say to me something like: "Ray, there's  
10 really two things I see wrong with that. One,  
11 the rate where reporting to the Federal  
12 Communication Commission is really not the rate  
13 that we can obtain. And I'm concerned that we  
14 might be committing some sort of a fraud upon the  
15 Federal Communication Commission. And two, why  
16 should we fill out the application at all if we  
17 can get the \$100?"

18 And how do I respond to those  
19 questions from you to the Board's attorney?

20 A The first question I can't help  
21 you with now, not being an attorney myself.

22 The second question, I think can  
23 be answered as follows: It doesn't seem likely  
24 to me in providing educational technology to your  
25 school and school district and the only service